

SEP 28 2007

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE LIMON-MORA,

Defendant - Appellant.

No. 05-10636

D.C. No. CR-04-01649-DCB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted September 24, 2007**

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Jose Limon-Mora appeals from the 63-month sentence imposed following his guilty-plea conviction for illegal re-entry, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Limon-Mora contends that the district court erred in enhancing his sentence pursuant to 8 U.S.C. § 1326(b)(2) because he was previously “excluded” rather than “removed” from the United States subsequent to a conviction for commission of an aggravated felony. We disagree. Limon-Mora’s departure from the United States following his felony conviction, pursuant to an immigration order, was a removal for purposes of 8 U.S.C. § 1326(b). *See United States v. Diaz-Luevano*, 494 F.3d 1159, 1161-62 (9th Cir. 2007) (per curiam); *United States v. Luna-Madellaga*, 315 F.3d 1224, 1226 (9th Cir. 2003). It is inconsequential that the reinstatement of Limon-Mora’s prior removal was ordered by an immigration official, rather than an immigration judge. *See Morales-Izquierdo v. Gonzales*, 486 F.3d 484, 498 (9th Cir. 2007) (en banc).

AFFIRMED.